IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3695 OF 2005

The State of Maharashtra ...Applicant.

Versus

Dinkar Santosh Raundal ...Respondent.

. . .

Smt.U.V.Kejariwal, APP, for the Applicant-State.

. . .

CORAM : D.G.DESHPANDE AND
SMT.V.K.TAHILRAMANI, JJ.

DATED : MARCH 31, 2006.

P.C.:

. This is an application filed by the State for leave to appeal against the acquittal of the accused of the offence punishable under Section 376 of Indian Penal Code. Though the applicant is convicted for the offences punishable under Sections 363, 366 of Indian Penal Code and sentenced to R.I. for three years and fine of Rs.1000/-, the trial Court acquitted the accused of the offence punishable under section 376 of IPC on the ground that the prosecution has failed to bring on record sufficient evidence to prove the offence under Section 376 of IPC. It appears from the record that, in the present case no ossification test was conducted. But the Medical Officer gave the age of the victim as 16 to 17

years from her appearance only. The prosecution could not prove the exact date of birth of the girl. Two certificates have been tendered by the prosecution but both are conflicting and contradictory. Apart from this, the girl lived with the accused for two months on her own will and in that view of the matter, the trial court is justified in acquitting the accused of the offence under Section 376 of IPC. So also, the evidence shows that she was a consenting party. No interference is called for.

. Leave refused.

. Application is rejected.

(D.G.DESHPANDE, J.)

(SMT.V.K.TAHILRAMANI,J.)